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THE INSURGENT MOVEMENT IN CONGRESS.

BY VICTOR MURDOCK, M.C.

THOSE who have been designated popularly as "Rules Insurgents" in Washington are moved to protest by a very simple provocation. They have never been strong numerically. They have never had more than the most temporary organization. They have never held out the hope of reward to recruits. Each member of the band has suffered loss in committee preferment in the House of Representatives by reason of his attitude. They have been defeated frequently. Yet none of the discouragements they have met has dispersed the group.

Why does it hold together? Because the provocation which has led them into protest is fundamentally just, and every man in the movement recognizes that his cause is greater than he or his associates, and that the idea which has claimed him as its follower will, if need be, march on without him or his fellows; indeed, without a following at all. Coupled with this belief is the conviction that the march of the idea must end in ultimate triumph, victory coming immediately public opinion is fully informed.

If the protest of these so-called insurgents were a struggle of those who have not against those who have, it could not display this vitality. If it were a contest of those who are out against those who are in, its dissolution would have taken place long ago. It is neither the one nor the other.

It is, on the contrary, a struggle of a group, not against another and larger group, not against a faction or a man, but against a perverted legislative system. The system under attack is not wholly peculiar to the Federal Congress. It is known in small degree to ward caucuses, town meetings, State conventions, State Legislatures, conclaves of fraternal societies and assemblies of

other organizations having parliamentary procedure. But the perversion of the system has reached its climax in the House of Representatives. There its oppression is heaviest and there it was the most natural thing in the world it should meet its first serious challenge.

The system under attack has the evil portion of its life in the successful denial of vital participation on the part of the majority in constructive legislation. It has perverted the instrumentality of cloture, originally intended to expedite the business of a congregation of men, into a method for preventing the majority from recording its desire. For cloture in the House of Representatives has ceased to be used merely for bringing a question to a concluding and deciding vote; its greater office has been to force the majority not merely to conclude the consideration of the question by a vote, but to fashion and determine the very nature of the question itself by that vote. There is a mighty difference.

To give a concrete instance: the recent tariff bill was reported out of the committee into the House. Cloture was applied for one purpose, generally understood and endorsed, that is to expedite the measure and force its consideration with despatch to a concluding and deciding vote. But cloture was applied for another and far more weighty purpose, not generally understood, to make the tariff bill what those who dominated the committee which reported it, wanted it to be, and to prevent the majority of the House from making the bill what the majority wanted it to be. The committee which framed the bill had access to every item of the thousands in the tariff measure. The committee could change any one of the items or all of them. The House itself under cloture could change but five items in the bill: barley, barley malt, lumber, hides and petroleum.

Now as possession is nine points in law, initiation is nine points in legislation. The man who frames a measure has a great advantage over those who would amend it. This advantage becomes complete when, through cloture, all right to amend the measure is denied. The deciding congregation of men are then asked to vote up the proposal as a whole or reject it. It cannot be known to the great body of American electors that most of their major legislation is passed through the House of Representatives in this way. It may be well to cite another instance. The Aldrich

emergency currency law had its origin in a currency famine in October, 1907. Congress assembled in the following December. The pressure of public opinion upon Congressmen was general in the form of a popular insistence that provision be made for an emergency currency to be used in similar crises. The Aldrich idea was broached. The expression of the members of the House was overwhelmingly against the Aldrich idea. Thereupon another idea, the Vreeland plan, was born. It was acceptable to the House, which passed the Vreeland bill and sent it to the Senate. In the Senate the Aldrich idea was attached in its entirety to the Vreeland bill and both plans came back as a single bill from the Senate. The session was drawing to a close. Notwithstanding popular demand, Congress had passed no law meeting the necessity of emergency currency. Cloture was applied, the right to amend the Vreeland-Aldrich bill shut off and Congressmen were told to accept the Aldrich idea, which they did not endorse, or return to their people without any response whatever to their demands. Congressmen accepted the Aldrich idea, under duress, and passed the bill.

Now those who are called insurgents are not against cloture. They are for the despatch of business, and in a large body of men debate upon occasions must be limited. But they do not endorse cloture when it is used, not to expedite public business, but to exclude the majority from vital participation in the construction of major legislation. Their exclusion from such participation is at the bottom of their attack upon the system. Their impeachment of the system arises because the right of representation, in the sense of vital participation in constructive legislation, has been monopolized by a few men and finally lodged in its entirety in the person and office of the Speaker.

If I can, I would like to convey to the man who has had no Congressional experience the extent to which this transfer of power from the House itself to the person and office of one man has gone. The right to representation in the House is not wholly an affair of the individual Congressman. It is primarily a right that belongs to the 200,000 people in his district. Whatever his personal feelings in the matter, he ought to have a keen regard for the function of representation as it is related to the people who have delegated him to act for them. Many representatives do. The great majority of men who come to Congress bring

with them an abiding faith in the good sense and justness of the people. They have come to know the mass of electors as individuals who are hearty in their commendations and slow in their condemnations of public servants, and of infinite patience in public affairs. Faith in the people is a cardinal tenet of representatives newly come to Congress. But the new representative finds, after the blindness of his first confusion, that the 200,000 people who have sent him as a representative are to have no vital participation in the construction of major legislation through any exercise of his representative functions. He may voice his sentiments endlessly: he may vote "aye" or "no" on a proposition of importance. But he cannot amend it to his own liking; he cannot even offer those about him the opportunity to vote up or down the change he would propose. His next step is one of humiliation. He may personally petition those who have the privilege of amending the proposition within the secret committee which is constructing the bill. But when he takes this step, it is with the thought that the constituents who sent him to Congress delegated him as a representative and not as a petitioner. If he swallows his humiliation and becomes personally a suppliant before a committee, he finds at last that the power of initiation, the power that is nine points in legislation, is not in the committee, but in that part of the system which creates the personnel of the committee—the Speaker of the House.

If he does not succumb to the system at this point and surrender his desire to go further into the mysteries through which popular representation has been distorted into an autocracy, he will continue his investigation and the next step involves analysis. Granted the Speakership has taken to itself the power of the individual membership of the House, how is it lodged and how exercised? The power which has been shifted from the House to its presiding officer becomes in the Speaker twofold in character. It is personal and official. This circumstance gave origin to the phrase, which has become a popular definition, "Cannon and Cannonism." The Speaker exercises his power personally in selecting favorites for important committees and punishing others by assigning them to poor committees; by making up committees of men who agree with him on certain phases of important pending public measures; by placing upon measures which are to be pushed through under cloture the imprint of his personal idea;

by extending recognition on suspension day to those he desires to favor. He exercises his official power by his control over business. He may permit consideration of a measure or prevent its consideration. This he does under the rules and in particular under three rules, one of which bestows upon him the chairmanship of a very small but most important committee called the Committee on Rules, another which gives him the right of arbitrary recognition and another which permits him to name not only the standing committees, but to designate the chairman of each committee. No one could differentiate distinctly between the use of the Speaker's personal power and his official power in all transactions. Ordinarily the Speaker uses both, and a diminution in either of his powers perceptibly weakens him in both.

The service of the Speaker on the Committee on Rules is important to the office in this. The committee has as its chief function the right to apply cloture, to put through the House a concrete measure without permitting the House to amend it. The Speaker dominates the committee. He decides upon the form of the measure and is its chief advocate. And then when it is put before the House, he mounts to the Speaker's chair as judge of the court before which the trial of his own measure is to proceed.

The power of the Speaker in recognition, when it is fully understood by the public, must be astounding. Every man who has served as a delegate in a ward caucus, fraternal society convention, conference or other conclave knows that there is an arbitrary element in the presiding officer's power of recognition that may not be eliminated and which is often used selfishly and to further some concerted and often secret prearrangement. If two men in a meeting rise simultaneously a presiding officer must name arbitrarily the man who is to speak first. There is no help for this, and a great many people think that this is the complaint against the Speaker by those called insurgents. But this is not the complaint. Under the rules and the voluminous precedents which have grown up under them, the Speaker may refuse to entertain a motion by a member when the member has no competitor for recognition and when the member asking recognition is in order. The formula in use on these occasions, and they occur on days when it is in order to suspend the rules, is the ultimatum by the Speaker, after he has heard the motion of the

member seeking recognition: "The gentleman is not recognized for that purpose."

The power of the Speaker in naming committees is that which accrues to any form of close military organization. The Speaker is the general of the House and the chairman of committees are his field marshals. Control runs not upward from the members to the Speaker through the chairmen of committees. It runs downward from the Speaker through the chairmen to the members. There have been many occasions when the magic words, "The Speaker wants this measure passed," passing electrically through the House, saved the day for a bill, as, conversely, there is one known instance when a majority of Congress petitioned a Speaker to permit consideration of a bill and were denied.

Now those who are called insurgents desire (1) to make the Speaker ineligible to a place on the Committee on Rules; (2) to take away the power of the Speaker to refuse recognition when recognition is in order and there is no rival for the floor when a member asks it; (3) to have the House itself select its own standing committees. There is no effort by the insurgents, and there has been none to do away with any of the procedure which makes for expedition in public business. The power of closing debate is not to be touched. The Reed rules against dilatory motions and for counting a quorum are to be left undisturbed. The means to overcome a filibuster and proceed to a final vote on all measures will stand in all its efficacy.

It is proposed that the Speaker shall surrender his monopoly in legislative initiation; that he shall give up a control that cuts the convictions of representatives to fit the irregularities of his personal caprices; that he shall lose his power, be it personal, official or both, which enables him to block and delay public business through the device of the pigeonhole, refusal of consideration and the postponement of mandatory bills. But most of all, it is proposed to give back to the membership of the House the right of vital participation in legislation, the privilege of reflecting, not the wish of the presiding officer, but the wish of their constituencies.

So often attacks upon existing systems which have the prestige of long existence are fanciful that I would again repeat. It is not proposed by those called insurgents to run the House without rules; it is no part of their plan to do away with the previous

question which stops debate when a majority so wills; it is not intended to abolish the Committee on Rules which can compel immediate action upon concrete propositions; it is no part of the changes proposed in the rules that the Speaker shall be compelled to recognize a member when the member is not in order in asking recognition; it is no part of the correction sought by the insurgents that a way shall be opened for the minority to obstruct and delay public business; it is not asked that the Reed rules, which prevented filibusters, be relegated; it is not designed by any one that any changes shall give the individual member such power as would enable him to block or embarrass orderly procedure.

There is no attack upon the procedure for the despatch of business. The attack is upon that part of the system which denies vital participation in constructive legislation by the membership of the House. The attack has one purpose in view and one purpose only: to make the House of Representatives what it was designed in the Constitution it should be, what it must be, if it is to be responsive to the genius of this democracy and in harmony with the spirit of progress of this people, representative not only in name, but representative also in fact.

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